

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

D.J., administrator of the estate of J.J.,)
deceased,)

v. Plaintiff(s),)

Civil Action No. 2:22-cv-1127-AJS

BANK OF NEW YORK MELLON)
CORPORATION FLEXIBLE BENEFIT PLAN,)
et al.,)

Defendant(s).

STIPULATION SELECTING ADR PROCESS

Counsel report that they have met and conferred regarding Alternative Dispute Resolution (ADR) and have reached the following stipulation pursuant to L.R. 16.2 and the Court's ADR Policies and Procedures.

I. PROCESS

Select one of the following processes:

- ☒ Mediation
☐ Early Neutral Evaluation (ENE)
☐ Court sponsored Binding¹ Arbitration
☐ Court sponsored Non-binding Arbitration
☐ Other (please identify process and provider) _____

If you are utilizing a private ADR process, such as the American Arbitration Association, be advised that the case is still governed by the Court's ADR Policies and Procedures. It is the responsibility of counsel to ensure that all of the proper forms are timely submitted and filed, as required by Policies and Procedures.

II. COSTS

The parties have agreed to share the ADR costs as follows (do not complete percentages for Court sponsored arbitration. For that process, costs are paid by the Court in accordance with 28 USC §658.):

50 % by Plaintiff(s)
50 % by Defendant(s)
_____ % by Third Party Defendant(s)

If a dispute arises as to compensation and costs for the mediator/neutral evaluator/private arbitrator, the Court will set reasonable compensation and costs.

¹For binding arbitration, please complete form "Stipulation to Binding Arbitration" located on the Court's website at www.pawd.uscourts.gov

III. NEUTRAL

The parties hereby designate by agreement the following individual to serve as a Neutral in the above-styled action:

| | |
|------------------------------------|--|
| Name of Neutral: | Gerald Kobell |
| Address of Neutral: | 2758 Mt. Royal Road, Pittsburgh, PA 15217-2546 |
| Telephone & FAX Numbers: | T: (412) 422-3226 F: (412) 412-3227 |
| Email address of Neutral: | geraldkobell@aol.com |
| <u>Date of ADR Session:</u> | March 17, 2023 |

The parties represent that they have contacted the selected prospective neutral and have determined that the neutral is available to conduct the ADR session within the time prescribed by the Court's Policies and Procedures and that the neutral does not have a conflict.

IV. PARTICIPANTS

Name and title of the individual(s) who will be attending the mediation or early neutral evaluation session, **in addition to counsel**, in accordance with **Section 2.7 (Attendance at Session)** of the Court's ADR Policies and Procedures:

| | |
|---------------------------------------|---|
| Eamon P. Kelly | D.J., administrator of the estate of J.J., deceased |
| Attorney for Plaintiff(s) | Plaintiff(s) |
| | |
| | Corporate Representative (Name and Title) |
| David J. DePiano | Bank of New York Mellon Flexible Benefit Plan |
| Attorney for Defendant(s) | Defendant(s) |
| | John Kahn, Esq. |
| | Senior Counsel |
| | Corporate Representative (Name and Title) |
| | |
| Attorney for Third Party Defendant(s) | Third Party Defendant(s) |
| | |
| | Corporate Representative (Name and Title) |

If there is insufficient space to list all parties who will be attending the session, please add additional sheets as necessary.

Each party certifies that the representative(s) attending the ADR session on its behalf has full and complete settlement authority, **as specified in sub-section (A)(1-3) of the above section of the Court's ADR Policies and Procedures.**

V. ACKNOWLEDGMENT

We, the undersigned parties to this action, declare that this stipulation is both consensual and mutual.

Dated: 2/6/23

/s/ Eamon P. Kelly

Attorney for Plaintiff(s)

Dated: 2/6/23

/s/ David J. DePiano

Attorney for Defendant(s)

Rev. 4/2017